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AICPA *Washington Report*

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HEALTH AND HUMAN SERVICES, DEPARTMENT OF

Automatic Data Processing Equipment and Services; Conditions for Federal Financial Participation is the title of a notice of proposed rulemaking by the Department of Health and Human Services (see the 11/19/84 Fed. Reg. pp. 45617-23). In 9/78, HHS published a regulation containing requirements that State and local governments must observe to claim Federal reimbursement for the costs of automatic data processing (ADP) equipment and services. The regulations are applicable to certain public assistance programs under the Social Security Act. The regulations were modified in 2/80 to implement certain changes. In general, HHS proposes to raise the prior approval threshold to \$200,000 for acquisitions costing that amount or more in Federal or State funds over a twelve-month period and to \$300,000 in Federal and State funds for the total acquisition. In addition, HHS is proposing to eliminate the prior notice requirement. Comments must be received by 1/18/85. For further information contact Joseph F. Costa at 202/245-7488.

PENSION BENEFIT GUARANTY CORPORATION

Participants in defined benefit pension plans terminating in 1985 may receive up to \$1,687.50 in maximum monthly benefits, according to a recent announcement by the Pension Benefit Guaranty Corporation (PBGC). The maximum guaranteed amount, one of the provisions of the Employment Retirement Income Security Act of 1974 (ERISA), is adjusted annually according to a formula prescribed in the law and is based on data obtained from the Social Security Administration. The maximum guarantee applies to a single life annuity beginning at age 65, or later, for participants in terminated pension plans who have earned a pension of that amount or more under the guaranteed provisions of their plans. In the event the benefit begins before age 65 or is payable in some form other than a life annuity, the maximum guarantee is adjusted. PBGC is a Federal agency created by ERISA. It guarantees the payment of certain defined pension plan benefits should a plan be terminated with insufficient funds to pay pension liabilities. The retirement benefits of 38 million people who participate in more than 112,000 private-sector defined benefit pension plans are insured by PBGC. For further information contact Jane McVicker at 202/254-4827.

SECURITIES AND EXCHANGE COMMISSION

The authority to adjust the filing date of a filing submitted in an electronic format is the subject of a final rule amendment by the SEC (see the 11/21/84 Fed. Reg. pp. 45847-48). The SEC is currently operating a pilot project for the receipt, processing and the dissemination of filings made in an electronic format known as "EDGAR" for Electronic Data Gathering, Analysis, and Retrieval. The SEC is now amending a prior final rule governing delegation of authority to delegate to the Director of Corporation Finance to adjust the date of filing to a date not earlier than the registrant's initial attempt to file in cases where the Commission's acceptance of a filing submitted in an electronic format is delayed because of equipment malfunction or technical problem. These cases, according to the SEC, include but are not limited to problems with respect to hardware or software, transmission or reception communication network, line or wire unavailability, or diskette or magnetic tape damage. The effective date of this amendment is 11/21/84. For further information contact Patricia Jayne at 202/272-2589.

Revision of the expense-related disclosure requirements of Form N-1A has recently been proposed by the SEC (see the 11/15/84 Fed. Reg., pp. 45172-74). Form N-1A is the registration form used by open-end management companies under the Investment Company Act of 1940 and the Securities Act of 1933. The proposed revisions would consolidate all expense-related information contained in the prospectus and add a tabular presentation of the major expense data. Comments are sought by 1/14/85. For further information contact Mary Margaret Hammond at 202/272-3045.

TREASURY, DEPARTMENT OF

Credit or Refund of Windfall Profit Taxes to Certain Trust Beneficiaries is the title of a notice of proposed rulemaking by the IRS (see the 11/20/84 Fed. Reg. pp. 45758-61). The notice contains proposed regulations under section 6430 of the Internal Revenue Code of 1954 relating to a credit or refund of windfall profit taxes to certain trust beneficiaries. Changes to the applicable law were made by the Technical Corrections Act of 1982. The regulations would, according to IRS, provide guidance on the requirements for qualification for, and the computation of, this credit or refund of windfall profit tax. Written comments and requests for a public hearing must be delivered or mailed by 1/22/85. The regulations are proposed to be effective with respect to crude oil removed (or deemed removed) during calendar years beginning after 12/31/81. For further information contact John Schmalz at 202/566-3516.

VETERAN'S ADMINISTRATION

Waiver of Overpayments is the title of a notice of proposed rulemaking by the U.S. Veteran's Administration (see the 11/21/84 Fed. Reg. pp. 45870-71). The VA is proposing to amend 38 CFR 1.962 by clarifying that the term "overpayment" excludes payments received by third parties who are neither payees nor beneficiaries. This situation arise, according to the VA, when erroneous benefit payments are made shortly after the payee's or beneficiary's death and are received by or credited to the account of a non-entitled third party. By clarifying that such payments to third parties who are neither beneficiaries nor payees are excluded from the definition of an overpayment, the VA is attempting to properly limit waiver consideration to deserving veterans and beneficiaries. Comments must be received on or before 12/21/84. For further information contact Peter Mulhern at 202/389-3405.

SPECIAL: VICE PRESIDENT'S TASK GROUP RELEASES FINANCIAL SERVICES REPORT

The Final Report of the Task Group on Regulation of Financial Services, formed in 12/82 and chaired by Vice President George Bush, was released by the Office of the Vice President on 11/15/84. Entitled Blueprint for Reform, the report sets forth more than four dozen recommendations regarding the federal financial regulatory system. The Report, according to the Task Force, sets forth numerous specific steps designed to benefit the public by improving the effectiveness of the nation's financial regulatory system while at the same time streamlining it to "eliminate unnecessary burdens or duplication." In transmitting the final report to the President, Vice President Bush stated that "in our view, the public would significantly benefit from a reorganization of our federal regulatory system. Safety, fairness and efficiency are attributes that the public interest demands of our financial system, and our recommendations are designed to achieve these goals." Key points in this report include: reorganization of the three federal bank regulatory authorities into two by

eliminating the Federal Deposit Insurance Corporation's (FDIC) role in general bank supervision; a transfer of current federal supervision of many state-chartered banks and thrift institutions to state regulatory agencies; and a streamlining of existing regulations. Page 95 of the report contains a heading entitled Elimination of Nuisance Litigation Under RICO. This section of the report stated: "The Racketeer Influenced and Corrupt Organizations Act (RICO) passed in 1970 as part of an omnibus crime legislation, authorizes civil suits for violations of RICO with treble damage awards and attorneys fees. Because 'securities fraud' is one of the many offenses that can trigger RICO, it has been used increasingly in litigation concerning normal disputes between brokerage firms and their customers, as well as in litigation between banks and their customers over interest rate levels and other matters wholly unrelated to organized criminal activities. The statute should be amended to insure that its civil liability provisions are not misused by private parties in litigation involving financial institutions."

SPECIAL: TWELFTH ANNUAL AICPA CONFERENCE ON CURRENT SEC DEVELOPMENTS

The Twelfth Annual AICPA Conference on Current SEC Developments will be held in Washington, D.C. at the Capital Hilton Hotel, 1/8-9/85. This specialized securities conference is targeted to practicing CPAs, senior financial officers of reporting companies, and others who are concerned with current developments in the area of SEC reporting. Major topics of this conference include: current projects in the Office of the Chief Accountant; developments in accounting and auditing; developments in the Division of Enforcement; segment information and Management's Discussion and Analysis; proposed Registration Forms S-4 and F-4; current developments relating to Regulation D; Rule 305 and Article II; current developments in the financial services industry and in reporting by oil and gas companies. Speakers and participants include the Honorable James C. Treadway, Jr., Commissioner, Securities and Exchange Commission, John M. Fedders, Director of Enforcement, SEC, and A. Clarence Sampson, Chief Accountant, SEC. The participant registration fee for this conference is \$375.00. This fee covers all applicable sessions, conference materials and meal functions. Hotel accommodations and other meals are not included. For further information please write or call the AICPA Meetings Department, 1211 Avenue of the Americas, New York, N.Y. 10036. (212/573-6451).

For additional information, please contact Stephanie McCarthy, Gina Rosasco, or Nick Nichols at 202/872-8190

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